

PART 2009 - BUDGETS

SUBPART B - System of Administrative Control of Apportionments
and Allotments

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PART 2009 - BUDGETS

Subpart B - System of Administrative Control
of Apportionments and Allotments

§2009.51 General.

This subpart prescribes the laws, policies and procedures for providing an administrative control over apportionments and allotments.

(a) Legal authority.

(1) Section 3679 of the Revised Statutes, as amended, directs the Secretary of Agriculture to prescribe, by regulation, a system of administrative control which shall be designed to restrict obligations or expenditures charged to an appropriation to the amount of apportionments or reapportionments made for each, and enable the Secretary to place responsibility for the creation of any obligation or the making of any expenditure in excess of an apportionment or reapportionment.

(2) The Impoundment Control Act of 1974 (31 U.S.C. 1400-1407) prescribes guidelines and procedures to be followed when a reserve or deferral of budget authority is to be established. Any restraint on the processing of obligations for any reason must be reported by the President to the Congress as a proposed rescission or deferral.

(b) Departmental regulations. Departmental Regulation (DR) 2000-1 prescribes the system of administrative control under apportionments and contains the regulations issued by the Secretary of Agriculture and approved by the Office of Management and Budget (OMB) in accordance with the above requirements. The DR places the primary responsibility with each agency head of the Department for limiting obligations or expenditures to the lesser of amounts permitted by the apportionments or allotments from appropriations or actual funds available to the agency. It also provides that any agency head may delegate to officials thereof responsibilities in connection with the allotment of funds within apportionments and the control of obligations or expenditures under allotments.

(c) Farmers Home Administration (FmHA) policy. This subpart prescribes the system of administrative control within FmHA for limiting obligations or expenditures to the lesser of amounts permitted by the apportionments or allotments from appropriations or actual funds available to FmHA, and the delegation by the Administrator of responsibility and authorities in connection with the allotment of funds within apportionments and the control of obligations or expenditures under allotments. It is the policy of FmHA to accomplish financing of operations at the highest level consistent with proper supervision and control over obligations.

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§2009.52 Definitions.

Definitions in this subpart comply with OMB Circular No. A-34 as follows:

(a) Apportionment. A distribution made by OMB or by the United States Department of Agriculture's Office of Budget and Program Analysis of amounts available for obligation in an appropriation or fund account into amounts available for specified time periods, activities, functions, projects, objects, or combinations thereof. The amounts so apportioned limit the obligations that may be incurred.

(b) Allotment. An authorization by the head or other authorized employee of an agency to incur obligations within a specified amount pursuant to an appropriation or other statutory authority. Obligations incurred or expenditures made in excess of such authorized amounts will constitute a violation of the Antideficiency Act and will be reportable as provided in §2009.57 of this subpart. Such administrative devices as "allowances," "operating budgets," "work plans," "State distribution," etc., when established for purposes other than the limitation of obligations or expenditures within specific amounts, shall not be construed as "allotments."

(c) Obligations. Amounts of orders placed, contracts awarded, services received, and estimated amounts authorized anticipating the future payment of money. Such amounts will include payments not preceded by the recording of obligations and will reflect adjustments of differences between estimated obligations and actual payments when liquidation is completed. Obligations will be consistent with the requirements of Section 1311 (a) of the Supplemental Appropriation Act of 1955 which states in part that: "... no amount shall be recorded as an obligation of the Government of the United States unless it is supported by documentary evidence of --

(1) A binding agreement in writing between the parties thereto, including Government agencies, in a manner and form and for a purpose authorized by law, executed before the expiration of the period of availability for obligation of the appropriation or fund concerned for specific goods to be delivered, real property to be purchased or leased, or work or services to be performed; or

(2) A valid loan agreement, showing the amount of the loan to be made and the terms of repayment thereof; or

(3) An order required by law to be placed with a Government agency; or

(4) An order issued pursuant to a law authorizing purchases without advertising when necessitated by public exigency or for perishable subsistence supplies or within specific monetary limitations; or

(5) A grant or subsidy payable

(i) from appropriations made for payment of or contributions toward, sums required to be paid in specific amounts fixed by law or in accord in formulae prescribed by law, or

(ii) pursuant to agreement authorized by, or plans approved in accord with and authorized by law; or

(6) A liability which may result from pending litigation brought under authority of law; or

(7) Employment or services of persons or expenses of travel in accord with law, and services performed by public utilities; or

(8) Any other legal liability of the United States against an appropriation or fund legally available therefor."

(d) Deferral. Any action or inaction that temporarily withholds, delays or effectively precludes the obligation or expenditure of budget authority. Deferrals referred to under §2009.51 of this subpart comprise amounts reserved for contingencies pursuant to the Antideficiency Act (31 U.S.C. 665) and amounts withheld through the apportionment process pursuant to the Impoundment Control Act (31 U.S.C. 1403).

(e) Rescission. Enacted legislation which cancels previously approved budget authority prior to the time when the authority would otherwise lapse (i.e., cease to remain available for obligation). Rescission proposals made by the President must be transmitted in a special message to the Congress.

(f) Appropriation or fund account. An account provided to make amounts available for obligation and expenditure. These accounts may include direct appropriations, revolving funds, trust funds, and management or working funds, etc.

§2009.53 Delegation of authority and allotment control.

(a) Delegation. The Administrator hereby delegates the authority for the issuance of allotments within approved apportionments to the Director, Budget Staff or designee. It will be the responsibility of the Director, or designee to determine that total allotments from appropriations and reimbursements do not exceed approved apportionments or funds available; and to limit allotments for reimbursable activities to the amounts of such estimated additional funds that will probably be realized from reimbursements. The responsibility for limiting obligations to allotments and to quarterly or other limitations is delegated to each allottee (generally the Assistant Administrator, Finance Office) receiving an advice thereof.

(b) Designee. In accordance with paragraph (a) of this section, Director, Budget Staff, designates the Deputy Director, Budget Staff and/or the Chief, Budget Planning and Services, authorities for the issuances of allotments.

(c) Allotment amount or limitation. Each allotment advice shall indicate the total amount allotted for the year and the quarterly or other limitations thereunder which shall be within approved apportionments.

(d) Subdivisions. Administrative subdivisions by objects of expenditure, activities, projects, functions, or other subdivisions of funds may be made by the allottee for management needs. Such subdivisions are made for purposes other than the limitation of obligations or expenditures within specified amounts and shall not be considered as allotments from appropriations.

§2009.54 Control and recording obligations.

The responsibility for control of obligations within allotments and quarterly or other limitations thereof shall be vested in the allottee receiving the funds. The methods indicated below shall be followed as a means of preventing the incurrence of obligations in excess of allotments:

(a) The official accounting records of FmHA shall be established and maintained in such manner as will properly reflect allotments and quarterly or other limitations thereunder.

(b) Summary control accounts shall be maintained by the FmHA Finance Office, St. Louis, MO and/or the National Finance Center, New Orleans, LA to reflect the status of all funds made available to allottees and shall be considered the official records.

(c) Obligations shall be posted as promptly and as accurately as possible to the subsidiary and/or control accounts from properly prepared accounting documents consistent with the requirements of §1311 of the Supplemental Appropriation Act of 1955. When the precise amount of the obligation is not known at the time it is incurred, an estimated amount, based on experience and the best available information, shall be used.

(d) When allotments include amounts for estimated reimbursements, it shall be the responsibility of the allottee to limit obligations against such reimbursements to the amounts that will actually be realized.

(e) In cases involving reimbursements from other Federal agencies or from non-Federal sources, a properly executed agreement, memorandum of understanding or order shall constitute the minimum assurance that the receivable will be realized.

(f) When services are performed for the public as authorized by law on a fee or cost basis, the rendering of the service will be regarded as adequate support for the validity of the account receivable.

§2009.55 Reporting of obligations.

Cumulative reports on the status of current allotments (including allotments under appropriations which have not yet been merged with successor "M" accounts) shall be furnished to the allottees at regular intervals. The Director, Budget Staff is responsible for reporting, as set forth below, any violations of law which are reflected in these reports. The "M" report will be sent to the Budget Staff. In addition, the Finance Office will prepare reports in conformance with the requirements of OMB Circular No. A-34 and Treasury requirements. Such reports shall be prepared on the basis of official accounting records and certified by the Finance Office and shall agree with similar data reported to Treasury.

§2009.56 Reporting rescissions or deferrals.

The Impoundment Control Act of 1974 (Title X of P.L. 93-344) provides for the reporting by the President to the Congress of any action that would place a restraint on the incurring of obligations for any reason as a proposed rescission or deferral of budget authority. The Director, Budget Staff, will be responsible for the reporting of such actions through the Administrator, FmHA, and the Secretary of Agriculture to OMB.

§2009.57 Reporting violations of law.

(a) Responsibility. The Director, Budget Staff is responsible for determining whether or not obligations incurred or expenditures made by allottees are within approved allotments. The Finance Office is responsible for reporting to the Budget Staff any accounting procedural discrepancy. Whenever violations of the following character become known, the Budget Staff will prepare a report in the form of a letter addressed to the President for the signature of the Secretary which will be submitted promptly for the approval of the Administrator:

- (1) When obligations are incurred or expenditures are made in excess of the amount available to the allottee.
- (2) When allotments are made in excess of apportionments.
- (3) When a contract or other obligation is approved for the payment of money for any purpose in advance of appropriation made for such purpose unless such contract or obligation is authorized by law.
- (4) Any violation of the prohibition on acceptance of voluntary services for the United States or employment of personal services in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property.

(b) Violations. Reports of violations of the above character will provide information required by Chapter 4, DR 2000-1, Section 132, and will include the following:

- (1) The title and symbol (including the fiscal year) of the appropriation or fund account, the amount involved for each violation, and the date on which the violation occurred.
- (2) The name and position of the officer or employee responsible for the violation.
- (3) All the pertinent facts relating to the violation, including the type of violation (for example, over-obligation of allotment, over-obligation of apportionment, over-expenditure of an appropriation, and so forth), the primary reason or cause, and any statement of the responsible officer or employee with respect to any circumstances believed to be extenuating.
- (4) A statement of the administrative discipline imposed and any other administrative action taken with respect to the officer or employee, or an explanation as to why no disciplinary action is considered necessary.
- (5) A statement of any additional action taken by the Administrator, including any new safeguards provided to prevent recurrence of that type of violation.
- (6) Statement regarding the adequacy of the system of administrative control.
- (7) If another agency is concerned, a statement concerning the steps taken to coordinate the report with the other agency.

(c) Reports. A report on such violations also must be submitted to Congress as required by law.

§2009.58 Liability.

In addition to any penalty or liability under any other law, any officer or employee who shall violate any of the provisions under §2009.57 of this subpart will be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office; and any officer or employee who shall knowingly and willfully violate any of the provisions under §2009.57 will, upon conviction, be fined not more than \$5,000 or imprisoned for not more than 2 years or both. In cases involving disciplinary action, such action will be taken in accordance with established Departmental procedures.

§2009.59 Notification of responsibility.

A copy of this subpart shall be furnished each employee to whom responsibilities, authorities, or duties are assigned hereunder.

§§2009.60 - 2009.100 [Reserved]

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